

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PAUL CLARK,

Plaintiff,

v.

GOLDEN SPECIALTY, INC. and SCOTT  
SWIGGARD,

Defendants.

Case No. 2:14-cv-01412-TSZ

**PRETRIAL ORDER**

TRIAL DATE: OCTOBER 31, 2016

Pursuant to the Court's April 4, 2016 Minute Order (Dkt. No. 56), LCR 16(i), and LCR 16.1, Defendants Golden Specialty, Inc. ("Golden") and Scott Swiggard (collectively, "Defendants"), and Plaintiff Paul Clark ("Plaintiff") (collectively, the "Parties") submit the following Joint Proposed Pretrial Order.

**I. FEDERAL JURISDICTION**

The Court has subject matter jurisdiction in this matter under 29 U.S.C. § 1331 because Plaintiff has alleged claims under the Fair Labor Standards Act, 29 U.S.C. 201, *et seq.* The Court also has supplemental jurisdiction over the remaining claims under 29 U.S.C. § 1367.

**II. ADMITTED FACTS**

The following facts are admitted by the Parties:

1. Golden employed Clark at its Bellingham, Washington office from June 30, 2011, until November 18, 2013.

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Case No. 2:14-cv-01412-TSZ

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1           2.     Plaintiff's direct supervisor at the time of his hire was Ron McCulloch, who then  
2 held the title of Business Development Manager.

3           3.     Clark's offer letter from Golden described his duties as "the office's technical  
4 leader, major point of contact with established clients, and will work with the Business  
5 Development Manager and Regional staff to secure new clients, train and supervise team  
6 members and to maintain corporate business processes."

7           4.     Plaintiff was hired as a Project Manager by Elemental Air, Inc. on December 2,  
8 2013.

9           5.     Plaintiff's salary at Elemental Air, Inc. was higher than the salary he received at  
10 Golden.

### 11                               **III. ISSUES OF LAW**

12       A.     Defendants submit that the issues of law are as follows:

13           1.     Whether Plaintiff was properly classified as an exempt employee under the  
14 executive, administrative, or learned professional exemptions of the Fair Labor Standards Act.

15           2.     Whether Defendants changed the terms of Plaintiff's employment because of  
16 Plaintiff's complaints about his exempt classification under the Fair Labor Standards Act.

17           3.     Whether Defendants performed their obligations under Plaintiff's offer letter  
18 with regard to Plaintiff's compensation.

19           4.     Whether Defendants defamed Plaintiff with regard to the statements about  
20 "partial truths and lies under the guise of questions," Ex. 3 to Swiggard Decl., Dkt. No. 71-1,  
21 and "types of lies that caused... grief," Ex. 20 to Lipscomb Decl., Dkt. No. 72-1.

22           5.     Whether Plaintiff had a contract for continued employment with Elemental Air,  
23 and whether Defendants interfered with Plaintiff's contract for employment with Elemental  
24 Air.

25           6.     Whether Defendants terminated Plaintiff in violation of public policy because of  
26 his complaints about safety concerns in the workplace.

B. Plaintiff submits the following issues of law.

None. The court has already determined all issues of law per orders Doc. 92 and Doc. 97.

#### IV. PLAINTIFF'S CLAIMS

At trial, the Plaintiff will pursue the following claims:

1. Violation of the Fair Labor Standards Act (FLSA) in:
  - a. Failure to pay overtime wages to Plaintiff although he was not exempt, and
  - b. Retaliation against Plaintiff for reporting violations of the Fair Labor Standards Act;
2. Breach of contract with regards to Plaintiff's employment agreement with Defendant as to salary increases;
3. Tortious interference with contract in Defendant intentionally causing the loss of Plaintiff's employment with Elemental Air;
4. Defamation in Swiggard's statements about "partial truths and lies under the guise of questions," Ex. 3 to Swiggard Decl., Dkt. No. 71-1, and "types of lies that caused... grief," Ex. 20 to Lipscomb Decl., Dkt. No. 72-1.;
5. Violation of the Minimum Wage Act, RCW 49.46 for failure to pay all compensation and benefits due, including overtime and salary increase, and plaintiff's entitlement to double damages; and
6. Wrongful discharge in violation of public policy.

#### V. DEFENDANTS' AFFIRMATIVE DEFENSES

Without withdrawal or waiver of any aspect of any of their thirteen (13) affirmative defenses, Defendants briefly summarize the following affirmative defenses, which they anticipate that they will rely upon at trial:

1. **Third Affirmative Defense – Legitimate Business Reasons.** Defendants will establish that the decision to terminate Plaintiff's employment was based on a legitimate, non-



discriminatory reason, and no discriminatory or retaliatory factors motivated Defendants' actions towards Plaintiff.

2. **Fourth Affirmative Defense – Failure to Mitigate Damages.** Defendants will establish that even if Plaintiff engaged in some mitigation efforts at some points after his termination, he did not adequately mitigate damages for all relevant periods of time.

3. **Seventh Affirmative Defense – Same Employment Action in Absence of Protected Activity.** Defendants will establish that even if Plaintiff establishes a prima facie case of retaliation, Defendants would have taken the same action even in the absence of Plaintiff's engagement in protected activity.

4. **Eighth Affirmative Defense – Good Faith Defense.** Defendants will establish that even if Plaintiff is able to show that he was misclassified as an exempt employee, Defendants reasonably determined that Plaintiff met one or more of the Fair Labor Standards Act exemptions.

5. **Twelfth Affirmative Defense – After Acquired Evidence.** Defendants will establish that they would have terminated Plaintiff's employment based on evidence acquired after his termination.

## **VI. PLAINTIFF'S WITNESSES**

Without waiving and fully reserving their right to add to, subtract from, or otherwise revise this witness list, Plaintiff identifies the following trial witnesses.

### **A. Expert Witnesses.**

Plaintiff will not be calling any expert witness.

### **B. Fact Witnesses.**

#### **1. Paul Clark, Plaintiff, c/o counsel for Plaintiff.**

Plaintiff Clark will offer testimony regarding all claims, defenses, and damages; including but not limited to his job duties at Golden Specialty; his qualifications for his position; his education and training to perform his work; his rate of pay; his work week hours;

1 the structure of the Northwest office; the projects worked on during his employment with  
2 Golden; his chain of command above and below him; 2013 changes to his chain of command;  
3 his communications with Golden Specialty employees and managers regarding unsafe working  
4 conditions; his communications with state regulators regarding unsafe working conditions; his  
5 concerns regarding unsafe working conditions; his communications and concerns regarding  
6 lack of overtime pay; his communications and concerns regarding possible data falsifications;  
7 his attendance at meetings as required; his subordinates' concerns regarding pay and working  
8 conditions; his economic loss as a result of Defendants' failure to pay him overtime; his  
9 economic loss as a result of Defendants' failure to pay him promised pay increases; his  
10 economic loss as a result of Defendants' termination of him; his economic loss as a result of his  
11 loss of employment with Elemental Air; his job search efforts to obtain replacement  
12 employment; his emotional and mental state after the loss of his employment; and his  
13 knowledge of Golden's efforts to defame him to third parties.

14 **2. Tawny Clark, Plaintiff's Wife, c/o counsel for Plaintiff.**

15 Mrs. Clark will offer testimony regarding her relationship with Plaintiff Paul Clark; her  
16 ability to observe Clark on a day to day basis in 2012-2015; her observations of Clark's  
17 emotional and mental state at the time of his termination from employment with Defendants;  
18 her observations of Clark's emotional and mental state in the months following his termination;  
19 her observations of Clark's emotional and mental state in the months following his separation  
20 from employment with Elemental Air; impacts to the family finances as a result of the  
21 terminations of Paul Clark.

22 **3. Geoff Resney, Former Golden Employee, 219-765-3425.**

23 Mr. Resney may offer testimony regarding his job duties with Defendant Golden; his  
24 interactions with Paul Clark; his knowledge of Clark's job duties; his own job duties; his pay  
25 structure; challenges to his pay structure; Mr. Resney's observations of Clark's interactions  
26 with his supervisors; Mr. Resney's observations of Clark's interactions with clients;  
27



1 Mr. Resney's observations of Clark on the job site; Golden's stated reasons for terminating  
2 Mr. Resney.

3 **4. Holly Faulstitch, Former Golden Employee, 360-808-2605 – possible witness**  
4 **only.**

5 Ms. Faulstitch may offer testimony regarding her qualifications for the position for  
6 which she was hired; her duties with Defendant Golden; her observations of the duties of Paul  
7 Clark; her chain of command and oversight of her by Karen Swiggard; her working relationship  
8 with Paul Clark; her observations of Clark's interactions with clients; her observations of  
9 Clark's interactions with Golden Specialty employees; her knowledge of the Department of  
10 Labor investigations and filings; her knowledge of workplace safety concerns and Golden  
11 Specialty's response to same.

12 **5. Sebastian Wolfendale, Former Golden Employee, 222 Flora St.,**  
13 **Bellingham, WA 98225, 425-802-0794.**

14 Mr. Wolfendale may offer testimony regarding his qualifications for the position for  
15 which he was hired; his duties with Defendant Golden; his observations of the duties of Paul  
16 Clark; his chain of command; his working relationship with Paul Clark; his observations of  
17 Clark's interactions with clients; his observations of Clark's interactions with Golden Specialty  
18 employees; his knowledge of the Department of Labor investigations and filings; his  
19 knowledge of workplace safety concerns and Golden Specialty's response to same. Mr.  
20 Wolfendale will also testify as to Clark's work at Elemental, the fact that Clark secured work  
21 for Elemental and laid the groundwork for the future work performed by Elemental. Mr.  
22 Wolfendale will offer testimony regarding the reasons for Clark's termination from Elemental.

23 **6. William Martin, Former Golden Employee, 2120 Michigan St., Bellingham,**  
24 **WA 98229 – possible witness only.**

25 Mr. Martin may offer testimony regarding his qualifications for the position for which  
26 he was hired; his duties with Defendant Golden; his observations of the duties of Paul Clark;  
27

1 his chain of command; his working relationship with Paul Clark; his observations of Clark's  
 2 interactions with clients; his observations of Clark's interactions with Golden Specialty  
 3 employees; his knowledge of the Department of Labor investigations and filings; his  
 4 knowledge of workplace safety concerns and Golden Specialty's response to same; his  
 5 termination from Golden Specialty.

6 **7. Brian Durkop, 952-303-1969 – possible witness only/live or via deposition.**

7 Mr. Durkop may offer testimony regarding Paul Clark's work for Elemental, his  
 8 communications with Mr. Swiggard regarding Paul Clark, the limitations of Clark's ability to  
 9 pursue clients due to Swiggard's repeated threatening contacts.

10 **8. Scott Swiggard, President, Golden Specialty, c/o counsel for Defendants.**

11 Mr. Swiggard will offer testimony regarding his knowledge of Clark's disclosures  
 12 regarding Defendant's FLSA/MWS violations; his knowledge of Plaintiff's reports regarding  
 13 workplace safety; and possible data falsification; Plaintiff's work assignments; Plaintiff's  
 14 positive performance; and the stated reasons for Swiggard's termination of Plaintiff. Other  
 15 topics may be reserved for cross examination.

16 **9. Karen Swiggard, CFO, Golden Specialty, c/o counsel for Defendants.**

17 Mrs. Swiggard will offer testimony regarding her knowledge of Defendant's business  
 18 and operations as well as communications and information about Plaintiff's duties, position,  
 19 complaints, performance, and termination. Other topics may be reserved for cross examination.

20 **10. Ron McCulloch, Business and Logistical Development Manager, Golden**  
 21 **Specialty, c/o counsel for Defendants.**

22 Mr. McCulloch will offer testimony regarding his knowledge of Clark's disclosures  
 23 regarding Defendant's FLSA/MWA violations; his knowledge of Plaintiff's reports regarding  
 24 workplace safety; and possible data falsification; Plaintiff's work assignments; Plaintiff's  
 25 positive performance; and the stated reasons for Swiggard's termination of Plaintiff. Witness  
 26 will also offer testimony regarding the failure of Swiggard to confer with him as to the  
 27



1 termination of Clark and Swiggard's removal of Clark from McCulloch's chain of command. .  
2 Other topics may be reserved for cross examination.

3 **11. Troy Burrows, former Safety and Quality Assurance Manager, Golden**  
4 **Specialty, c/o counsel for Defendants.**

5 Mr. Burrows will offer testimony regarding his observations of the reports of Clark  
6 during the November 2013 lunch that preceded the termination of Clark, his role in the  
7 concerns of Clark regarding data falsification in the summer and fall of 2013, his observations  
8 of lax compliance with his predecessor and Golden. Other topics may be reserved for cross  
9 examination.

10 **12. Shaun Farris, current address unknown: Last known contact 540-494-0377.**

11 Mr. Farris may offer testimony regarding: his qualifications for the position for which  
12 he was hired; his duties with Defendant Golden; his observations of the duties of Paul Clark;  
13 his chain of command; his working relationship with Paul Clark; his observations of Clark's  
14 interactions with clients; his observations of Clark's interactions with Golden Specialty  
15 employees; his knowledge of the Department of Labor investigations and filings; his  
16 knowledge of workplace safety concerns and Golden Specialty's response to same.  
17

18 **VII. DEFENDANTS' WITNESSES**

19 Without waiving and fully reserving their right to add to, subtract from, or otherwise  
20 revise this witness list, Defendants identify the following trial witnesses:

21 **A. Expert Witnesses.**

22 Defendants will not be calling any expert witness retained or specially employed to  
23 provide expert testimony in this case.  
24  
25  
26  
27



1 **B. Fact Witnesses.**

2 **1. Scott Swiggard, President, Golden Specialty, c/o counsel for Defendants.**

3 Mr. Swiggard will testify at trial regarding Plaintiff's duties and exempt status while  
4 employed at Golden; Plaintiff's offer letter and the terms of compensation; Golden's policies  
5 and standard operating procedures, as well as Plaintiff's failure to adhere to those policies and  
6 procedures; his supervision of and interaction with Plaintiff; Plaintiff's duties and  
7 responsibilities; Plaintiff's attendance and availability problems; Plaintiff's supervision of  
8 employees in the Bellingham office; Plaintiff's job performance, including third-party concerns  
9 regarding Plaintiff; Plaintiff's failure to consistently participate in management meetings and  
10 related manager activities; the reasons for Plaintiff's termination and the events of November  
11 18, 2013; the statements he made about Plaintiff following Plaintiff's termination;  
12 communications with Elemental Air, Inc. and STAC; and other issues related to liability and  
13 damages.

14 **2. Karen Swiggard, CFO, Golden Specialty, c/o counsel for Defendants.**

15 Mrs. Swiggard will testify at trial regarding Plaintiff's financial performance; Golden's  
16 policies and standard operating procedures; her role overseeing timekeeping, pay, and  
17 accounting matters; her observations concerning the termination of Plaintiff's employment and  
18 the events of November 18, 2013; Plaintiff's failure to perform his obligations under his offer  
19 letter; and other issues related to liability and damages.

20 **3. Ron McCulloch, Business and Logistical Development Manager, Golden**  
21 **Specialty, c/o counsel for Defendants.**

22 Mr. McCulloch will testify at trial regarding Plaintiff's duties and exempt status while  
23 employed at Golden; Plaintiff's offer letter and the terms of his compensation; Golden's  
24 policies and standard operating procedures, as well as Plaintiff's failure to adhere to those  
25 policies and procedures; his supervision of and interactions with Plaintiff; Plaintiff's duties and  
26 responsibilities in the Bellingham office, including the factual circumstances of his supervisory  
27 relationship with Plaintiff during his employment; Plaintiff's attendance and availability

1 problems; Plaintiff's supervision of employees in the Bellingham office; Plaintiff's job  
2 performance; Plaintiff's failure to consistently participate in management meetings and related  
3 manager activities; the reasons for Plaintiff's termination; and other issues related to liability  
4 and damages.

5 **4. Paula Metz, Reports Department Manager, Golden Specialty, c/o counsel**  
6 **for Defendants.**

7 Ms. Metz will testify at trial regarding Golden's protocol for preparing testing reports;  
8 her interactions with clients regarding testing reports; Golden's policies and standard operating  
9 procedures and Plaintiff's failure to adhere to those policies and procedures; her interaction  
10 with Plaintiff; Plaintiff's duties and responsibilities with regard to data reporting; Plaintiff's  
11 attendance and availability problems; Plaintiff's supervision of employees in the Bellingham  
12 office; Plaintiff's job performance; Plaintiff's failure to consistently participate in management  
13 meetings and related manager activities; and other issues related to liability and damages.

14 **5. Troy Burrows, former Safety and Quality Assurance Manager, Golden**  
15 **Specialty, c/o counsel for Defendants.**

16 Mr. Burrows will testify at trial regarding his roles as QA/Safety Manager and Chief  
17 Operating Officer at Golden; Golden's policies and standard operating procedures; Plaintiff's  
18 failure to adhere to those policies and procedures; the System Improvement Plan ("SIP")  
19 process and SIPs prepared by or in connection with Plaintiff; alleged data falsification at the  
20 AES project; his interaction with Plaintiff, including in connection with Plaintiff's termination  
21 on November 18, 2016; Plaintiff's duties and responsibilities; Plaintiff's supervision of  
22 employees in the Bellingham office; Plaintiff's job performance; and other issues related to  
23 liability and damages.



1           **6. Sara Williams, former Human Resources Coordinator, Golden Specialty,**  
2 **c/o counsel for Defendants.**

3           Ms. Williams will testify at trial regarding Plaintiff's exempt status while employed at  
4 Golden; Golden's human resource department and its operations; Golden's policies and  
5 standard operating procedures and Plaintiff's failure to adhere to those policies and procedures;  
6 her interaction with Plaintiff; Plaintiff's duties and responsibilities as a supervisor of the  
7 Bellingham office; Plaintiff's attendance and availability problems; Plaintiff's supervision of  
8 employees in the Bellingham office; Plaintiff's job performance; and other issues related to  
9 liability and damages.

10           **7. Scott Chestnut, former Project Manager for Golden Specialty, c/o counsel**  
11 **for Defendants.**

12           Mr. Chesnut may testify in person or via deposition excerpt regarding Golden's policies  
13 and standard operating procedures; Golden's client relationship with AES; alleged data  
14 falsification issues and communications with third-parties re the same; his interaction with  
15 Plaintiff; Plaintiff's duties and responsibilities; Plaintiff's attendance and availability problems;  
16 Plaintiff's supervision of employees in the Bellingham office; Plaintiff's job performance;  
17 Plaintiff's alleged safety complaints; and, other issues related to liability and damages.

18           **8. Jennifer Craft, former Human Resources Coordinator, Golden Specialty,**  
19 **c/o counsel for Defendants.**

20           Ms. Craft will testify at trial via deposition regarding Plaintiff's exempt status while  
21 employed at Golden; Golden's human resource department and its operations; Golden's  
22 policies and standard operating procedures and Plaintiff's failure to adhere to those policies and  
23 procedures; her interaction with Plaintiff; Plaintiff's duties and responsibilities as a supervisor  
24 of the Bellingham office; Plaintiff's attendance and availability problems; Plaintiff's  
25 supervision of employees in the Bellingham office; Plaintiff's job performance; and other  
26 issues related to liability and damages.



1           **9. Myrthala Guerrero, former Safety and Quality Assurance Manager,**  
2 **Golden Specialty, c/o counsel for Defendants.**

3           Ms. Guerrero will testify via deposition excerpt regarding Golden's Quality Assurance  
4 and safety protocols; the responsibilities of regional managers to ensure safety in their  
5 respective offices; Plaintiff's attendance and availability problems; Plaintiff's supervision of  
6 employees in the Bellingham office; Plaintiff's job performance; and other issues related to  
7 liability and damages.

8           **10. Brian Durkop, President, Elemental Air, Inc., c/o Colton Long, Ogletree,**  
9 **Deakins, Nash, Smoack & Stewart, P.C., 90 South Street, Suite 3800, Minneapolis, MN**  
10 **55402.**

11           Mr. Durkop may testify in person or via deposition excerpt regarding Plaintiff's  
12 employment as the Northwest Regional Testing Manager at Elemental Air, Inc. from December  
13 2013 until June 2014, Plaintiff's failure to perform his obligations as the Northwest Regional  
14 Testing Manager during this time, the reasons for Plaintiff's termination from Elemental Air,  
15 the statements Mr. Swiggard made to Mr. Durkop about Plaintiff, and other issues related to  
16 liability and damages.

17           **11. Paul Clark, Plaintiff, c/o Plaintiff's counsel.**

18           Mr. Clark will testify at trial, including via deposition excerpt, regarding his prior  
19 employment background experience, his duties and exempt status while employed at Golden,  
20 his offer letter from Golden and terms of compensation, Golden's policies and standard  
21 operating procedures and his failure to adhere to those policies and procedures, his alleged  
22 safety complaints, his termination, his employment as the Northwest Regional Testing Manager  
23 at Elemental Air, Inc. from December 2013 until June 2014, his failure to perform his  
24 obligations as the Northwest Regional Testing Manager during this time, the reasons for his  
25 termination from Elemental Air, Inc., and other issues related to liability and damages.  
26  
27

1           **12. Jennifer Berrell or a Corporate Representative of BP Cherry Point.**

2           Jennifer Berrell or a corporate representative of BP Cherry Point ("BP") may be called  
3 to testify concerning Golden and Plaintiff's work at the Cherry Point Refinery from 2012-2013.  
4

5           **Plaintiff opposes the testimony by deposition of Scott Chesnut or any other witness**  
6 **within 100 miles of this court.**

7                           **VIII. EXHIBITS**

8           Without waiving and fully reserving their right to add, subtract from, or otherwise  
9 revise their exhibit lists:

10           1. Defendants identify the trial exhibits listed in the attached Exhibit A, and to each  
11 exhibit Plaintiff lodged applicable objections, and

12           2. Plaintiff identifies the trial exhibits listed in the attached Exhibit B, and to each  
13 exhibit Defendants lodged applicable objections.

14           Defendants do not currently intend to present exhibits in electronic format to jurors.

15                           **IX. ACTION BY THE COURT**

16           1. This case is scheduled for trial before a jury on October 31, 2016, at 9:00 a.m.

17           2. Trial briefs shall be submitted to the Court on or before October 11, 2016.

18           3. Jury instructions requested by either party shall be submitted to the Court on or  
19 before October 11, 2016. Suggested questions of either party to be asked of the jury by the  
20 Court on voir dire shall be submitted to the Court on or before October 11, 2016.

21           4. Docket Numbers 92 and 97 shall control the subsequent course of the action  
22 unless modified by a subsequent order. These orders shall not be amended except by order of  
23 the Court pursuant to agreement of the parties, or to prevent manifest injustice.  
24

1 DATED: October 11, 2016

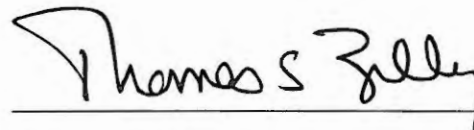
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14 and Scott Swiggard

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16 By s/ Stephani L. Ayers  
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18 stephani@whistleblowerdefenders.com  
19 Attorneys for Plaintiff

20 DATED this 14th day of October, 2016.

21 

22 Thomas S. Zilly  
23 United States District Judge



**EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT**

Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectable	Otherwise Objectable	Admitted
A-1	GS_000090-155	Various	Paul Clark Paychecks and Paycheck Statements	X			
A-2	GS_001283-1285	Undated	Resume of Paul Clark	X			
A-3	GS_000601-602	08/08/02	Job Description – Project Manager Emissions Testing		X		
A-4	GS_000001-34	06/23/09	Golden Specialty Employee Handbook and Policy Guide	X			
A-5	GS_001286-1289	06/01/11	Application for Employment – Clark	X			
A-6	GS_00002387-2388	06/13/11	Offer letter to Clark from Swiggard	X			
A-7	GS_001249	06/15/11	Employee Handbook Acknowledgement Form signed by Clark	X			
A-8	GS_001262	06/27/11	Equipment Issued to Employees form – Clark	X			
A-9	GS_009163-9167	10/05/11	Email from Clark to McCulloch re Paula Metz handling of data and post test field work		X		
A-10	GS_00003372-3376	11/02/11	Email from McCulloch to Swiggard re Clark status change form; request for salary adjustment	X			
A-11	GS_000035-66	01/18/12	Golden Specialty Employee Handbook and Policy Guide	X			
A-12	GS_001248	01/19/12	Acknowledgement of reading, signing and agreeing to abide by 2012 revised Golden Specialty Travel and Expense Policy		X		
A-13	GS_00003377-3378	01/31/12	Email from McCulloch to Clark re potential hires	X			
A-14	PC B.2 F.1 12-14/197	03/06/12	Email from McCulloch to Clark re Intalco March 2012 POM source testing	X			
A-15	PC B.2 F.1 16-17/197	03/09/12	Email from McCulloch to Clark re vent hood	X			
A-16	GS_011598	03/29/12	Email from Guerrero to P. Perrone re Hood	X			
A-17	PC B.2 F.1 27-31/197	04/04/12	Email from McCulloch to P. Perrone, R. Fortson, cc: Guerrero, Clark re Bellingham vent hood	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 1  
CASE NO. 2:14-CV-01412-TSZ

Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectable	Otherwise Objectable	Admitted
A-18	GS_011657	04/05/12	Email from Swiggard to Clark, McCulloch, Craft, cc: Guerrero re NCCAR response and clarification	X			
A-19	PC B.2 F.1 34/197	04/16/12	Email from Guerrero to Clark re fume hood	X			
A-20	GS_012586-12589	04/18/12	Email from P. Perrone to Guerrero, Clark, McCulloch re fume hood for NW		X		
A-21	PC F.3 20/101	04/18/12	Email from Farris to Craft, Clark re time off request	X			
A-22	GS_00001618-1622	04/18/12	Email from McCulloch to Clark, Craft re timekeeping policy updates	X			
A-23	GS_00001633-1637	06/07/12	Email from McCulloch to Clark, Craft re timesheet, concerns re exempt status	X			
A-24	PC B.2 F.1 67-68/197	06/08/12	Email from T. Kaiser to Clark attaching fume hood purchase order	X			
A-25	GS_012024	06/12/12	Quotation for fume hood	X			
A-26	Intentionally Blank	--	Intentionally Blank				
A-27	PC F.3 19-20/101	07/03/12	Emails from Wolfendale and Ferris to Clark re time off request	X			
A-28	GS_011632-11634	07/12/12	Email from Guerrero to T. Kaiser re safety training, vent hood		X		
A-29	GS_006212-6213	07/16/12	Email from Clark to Craft re timesheet, field hours	X			
A-30	GS_011648-11650	07/16/12	Email from Guerrero to McCulloch, Clark re NW Hood		X		
A-31	GS_012797-12801	07/16/12	Email from Guerrero to Clark, McCulloch, cc: Swiggard, P. Turner, P. Perrone re NW fume hood		X		
A-32	GS_012027-12029	07/16/12	Email from Swiggard to Guerrero; cc: P. Perrone re vent hood		X		
A-33	GS_012807-12817	08/07/12	Email from Clark to McCulloch re timekeeping and overtime pay; attaching WA DOL Overtime policy	X			
A-34	GS_00001638-1639	08/07/12	Email from McCulloch to Craft re Clark concerns re overtime pay	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 2  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-35	GS_011511	08/29/12	Email from McCulloch to Clark, Craft re time off request form	X			
A-36	GS_013363-13364	09/07/12	Email from Clark to T. Kaiser, S. Farris, S. Wolfendale re weekend premium		X		
A-37	PC B.2 F.1 172-178/197	09/25/12	Email from Guerrero to Clark, cc: McCulloch, Swiggard re US DOT Letter re S. Farris		X		
A-38	PC F.3 28-29/101	10/25/12	Email from McCulloch to Clark, Resney re time sheet and field log idea	X			
A-39	GS_00002647-2650	11/01/12	Email from Craft to McCulloch forwarding emails between Clark and Craft re time sheet and overtime hours	X			
A-40	PC F.3 86/101	12/05/12	Email from Craft to Clark, cc: McCulloch re timesheet approval	X			
A-41	PC F.3 88/101	12/06/12	Email from Craft to Ferris, Clark re timesheet approval	X			
A-42	EA000007-9	01/01/13	Employment Agreement between Clark and Elemental Air		X Dup 227		
A-43	GS_009104-9106	01/11/13	Email from Swiggard to Clark, cc: McCulloch re Bellingham lease	X			
A-44	GS_009099-9100	01/14/13	Email from Clark to McCulloch re suggestions on things to do differently	X			
A-45	GS_00002627-2631	01/17/13	Email from Clark to McCulloch re staffing of projects		X		
A-46	Intentionally Blank	--	Intentionally Blank	X(will be P's exhibit)			
A-47	PC B.2 F.7 22/265	01/24/13	Email from McCulloch to Clark, cc: Guerrero re safety issue				
A-48	Intentionally Blank	--	Intentionally Blank				
A-49	PC B.2 F.7 29-32/265	01/28/13	Email from Guerrero to Clark, cc: Swiggard, McCulloch re safety issue	X			
A-50	GS_013056-13061	01/28/13	Email from McCulloch to Swiggard, Clark, Guerrero re fume hood for NW	XC			



Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-51	GS_00002622-2626	01/30/13	Email from Swiggard to Clark, cc: McCulloch re applicants	X			
A-52	GS_006131	02/01/13	Email from Swiggard to McCulloch, cc: Craft re Clark working from home	X			
A-53	GS_008841-8846	02/01/13	Email from Swiggard to McCulloch re manager meeting notes	X			
A-54	Intentionally Blank	--	Intentionally Blank				
A-55	GS_012407-12410	02/04/13	Email from Guerrero to Clark, cc: McCulloch re eye wash	X			
A-56	GS_013049	02/04/13	Email from McCulloch to Swiggard, cc: Clark re vent hood on order	X			
A-57	GS_012293-12297	02/05/13	Email from Guerrero to Swiggard, cc: Clark, McCulloch re Methylene Chloride	X			
A-58	GS_012308-12312	02/05/13	Email from Guerrero to Swiggard, cc: Clark, McCulloch re Methylene Chloride		X (Dup)		
A-59	GS_012313-12317	02/05/13	Email from Clark to McCulloch, cc: Swiggard re Methylene Chloride	X			
A-60	GS_008778-8782	02/11/13	Email from Guerrero to McCulloch re methylene chloride	X			
A-61	PC B.2 F.7 142-149/265	02/14/13	Email from Guerrero to Clark, McCulloch, Swiggard re methylene chloride	X			
A-62	GS_012271	02/16/13	Email from Swiggard to McCulloch re open management issues	X			
A-63	GS_012988-12989	02/19/13	Email from McCulloch to Swiggard re open management items - snapshot	X			
A-64	GS_008596-8599	02/21/13	Email from Clark to Craft, McCulloch, cc: Guerrero re Ferris unemployment claim based on safety concerns	X			
A-65	GS_011594	02/26/13	Email from Swiggard to Guerrero; cc: K. Swiggard re hood and monitoring	X			
A-66	GS_00002574-2578	02/27/13	Email from Clark to McCulloch, cc: Swiggard, K. Swiggard, Craft re Holly, "Paul's call as to what works best"	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 4  
CASE NO. 2:14-CV-01412-TSZ

Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-67	PC B.2 F.7 176-178/265	02/27/13	Email from Guerrero to Clark, cc: Swiggard re hoods		X (cum. As in A-69)		
A-68	PC B.2 F.7 156/265	02/27/13	Email from Guerrero to Clark, cc: Swiggard re hoods		X (cum. As in A-69)		
A-69	PC B.2 F.7 179-182/265	02/27/13	Email from Guerrero to Clark re vent hood	X			
A-70	GS_00001935-1938	02/27/13	Email from Clark to McCulloch, Swiggard; cc: K. Swiggard, Craft re staff hires		X (in A-66)		
A-71	GS_012264-12265	02/28/13	Email from Clark to McCulloch, R. Fortson re weekly check in	X			
A-72	PC B.2 F.7 183/265	03/07/13	Email from Guerrero to Clark re vent hood	X			
A-73	PC B.2 F.7 188-189/265	03/15/13	Email from Guerrero to McCulloch, Clark re M23 SOP	X			
A-74	GS_008531-8534	03/15/13	Email from Swiggard to McCulloch, cc: Guerrero re lab hood	X			
A-75	GS_012211-12212	03/18/13	Email from Faulstich to McCulloch re Anemometer order	X			
A-76	GS_012913-12914	03/18/13	Email from McCulloch to Clark re M23 SOP	X			
A-77	GS_012915	03/18/13	Email from McCulloch to Faulstich, cc: Clark re fume hood filter	X			
A-78	GS_012916-12917	03/18/13	Email from McCulloch to Faulstich re monitor	X			
A-79	GS_011397	03/19/13	Email from D. LeRoux to Faulstich re fume hood filter		X (A-87)		
A-80	GS_012188-12189	03/19/13	Email from Guerrero to Clark, McCulloch, Swiggard re safety inspection	X			
A-81	GS_011402	03/20/13	Email from Clark to Faulstich re working out of office	X			
A-82	PC B.2 F.7 199-200/265	03/21/13	Email from McCulloch to Faulstich, cc: Clark re TSS/hood	X			
A-83	GS_012171-12172	03/21/13	Email from Swiggard to McCulloch re Clark work from home agreement	X			
A-84	GS_012155-12158	03/22/13	Email from Swiggard to McCulloch re potential merger and personnel issues	X			
A-85	GS_011423	03/25/13	Email from Clark to Faulstich "they are coming today to do ductwork on hood"	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 5  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-86	Intentionally Blank	--	Intentionally Blank				
A-87	GS_011425-11426	03/27/13	Email from D. LeRoux to Faulstich re fume hood certification	X			
A-88	PC B.2 F.7 209-210/265	03/27/13	Email from McCulloch to Clark, cc: Swiggard, Guerrero, K. Swiggard re Washington Final Closeout Meeting for Inspection	X			
A-89	PC B.2 F.7 211-212/265	03/27/13	Email from Swiggard to Clark, cc: Guerrero, K. Swiggard, McCulloch re Washington Final Closeout Meeting for Inspection	X			
A-90		03/27/13	Email from Guerrero to Swiggard, cc: K. Swiggard, McCulloch, Clark re Washington final closeout meeting for inspection (bates number illegible)	X			
A-91	GS_00001777	03/28/13	Employment offer letter from K. Swiggard to Chestnut	X			
A-92	GS_012136-12137	04/03/13	Email from Clark to Craft, cc: McCulloch forwarding leave request for calendar	X			
A-93	GS_001247	04/09/13	Employee Status Change Form changing supervisor to S. Swiggard	X	[wrong date]		
A-94	GS_000086	04/17/13	Golden Specialty Organizational Chart	X			
A-95	GS_012126-12127	04/19/13	Email from Guerrero to McCulloch re Chesnut and Clark working from home		X (A-98)		
A-96	GS_012128	04/19/13	Email from Guerrero to McCulloch re Clark and Chestnut working from home		X (A-98)		
A-97	GS_012863-12864	04/19/13	Email from McCulloch to Swiggard re working from home	X			
A-98	GS_012868-12869	04/19/13	Email from McCulloch to Guerrero re working from home	X			
A-99	GS_00002410-2417	04/19/13	Email from Swiggard to McCulloch re Shaun/Sebastian incident		X		
A-100	GS_011503-11504	04/22/13	Email from Clark to Faulstich re roles and responsibilities	X			
A-101	PC B.2 F.7 232-233/265	04/22/13	Email from Craft to Clark, cc: McCulloch re Shaun Ferris unemployment hearing	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 6  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-102	GS_013361	04/22/13	Email from McCulloch to Clark, Chestnut re working from home	X			
A-103	GS_012856-12857	04/23/13	Email from McCulloch to Clark re working from home,	X			
A-104	PC B.2 F.7 234-235/265	04/23/13	Email from McCulloch to Clark, Craft re DOT logs	X			
A-105	GS_006469-6473	04/24/13	Email from Clark to Faulstich re supplies for eyewash	X			
A-106	GS_008373-8374	04/25/13	Email from Swiggard to McCulloch re regional management roles	X			
A-107	GS_008177	05/06/13	Email from Faulstich to Chesnut, Clark, McCulloch, Guerrero re eyewash	X			
A-108	GS_011571-11572	05/06/13	Letter from Guerrero to DOSH re Golden Specialty appeal of violation		X		
A-109	GS_00002409	05/07/13	Email from Clark to McCulloch re teamwork	X			
A-110	GS_006183	05/09/13	Email from Guerrero to Craft re Paul Clark safety violation notice		X		
A-111	PC B.2 F.8 57-58/248	06/12/13	Email from Guerrero to Clark re call with OSHA re eyewash appeal	X			
A-112	PC B.2 F.8 60/248	06/13/13	Email from Swiggard to Guerrero, Clark re OSHA call	X			
A-113	GS_006528-6529	07/09/13	Email from Guerrero to McCulloch, Clark, Chestnut re eyewash citation vacated	X			
A-114	PC B.2 F.8 71-72/248	07/17/13	Email from Metz to Clark re AES info, Cal error for 6/5	X			
A-115	PC B.2 F.8 73-73/248	07/19/13	Email from Faulstich to Clark attaching cal error form from AES	X	(ASSUMING YOU MEAN 73-74/248)		
A-116	PC B.2 F.8 75-76/248	07/19/13	Email from McCulloch to Clark re AES data sheet errors		X (A-119)		
A-117	PC B.2 F.8 73-74/248	07/19/13	Email from Faulstich to Clark attaching AES data sheet		X (A-115)		

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 7  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-118	GS_00002400-2405	07/31/13	Email from Guerrero to Clark, McCulloch re test plan, suggestion to reiterate policies and procedures	X			
A-119	PC B.2 F.8 80-82/248	07/31/13	Email from Swiggard to Clark re Chestnut cal error	X			
A-120	PC B.2 F.8 84-86/248	07/31/13	Email from Clark to Guerrero re AES cal error	X			
A-121	PC B.2 F.8 91-96/248	08/02/13	Email from Guerrero to Clark re corrective action for Chestnut cal error	X			
A-122	PC F.2 1-5/150	08/02/13	Email from Guerrero to Clark re Chestnut cal error		X (A-121)		
A-123	GS_00002382-2388	08/02/13	Email from Clark to McCulloch re method deviation document, attaching job offer letter	X			
A-124	GS_005106-5107	08/06/13	Email from Clark to McCulloch re weekend pay	X			
A-125	GS_013890	08/10/13	Email from Swiggard to McCulloch re discussion with attorney re Clark		X		
A-126	PC B.2 F.8 115-117/248	08/13/13	Email from Swiggard to Clark, cc: McCulloch, Burrows re AES project review	X			
A-127	GS_006279-6281	08/28/13	Email from Swiggard to Clark, cc: Williams, McCulloch re Wolfendale compensation	X			
A-128	GS_014031	08/28/13	Email from McCulloch to Clark re pay inquiry	X			
A-129	GS_013537	08/30/13	Email from K. Swiggard to S. Swiggard "I hear Paul is threatening lawsuits"	X			
A-130	PC F.1 138-139/146	09/01/13	Letter from Clark to Whom it May Concern re claim against Golden Specialty for unpaid wages	X			
A-131	GS_006278	09/02/13	Email from Clark to Swiggard, cc: McCulloch re Wolfendale compensation and concerns over Clark's pay	X			
A-132	GS_00002217-2221	09/03/13	Email from Swiggard to McCulloch forwarding emails between Clark, Swiggard and McCulloch re pay increase for Sebastian and overtime pay	X			



Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectable	Otherwise Objectable	Admitted
A-133	GS_006142-6145	09/10/13	Email from Swiggard to McCulloch forwarding email between Clark, Swiggard and McCulloch re staffing and travel expenses	X			
A-134	GS_00001815-1816	09/11/13	Email from McCulloch to Swiggard, Williams, K. Swiggard re General Manager Overtime Question		X		
A-135	GS_013737-13739	09/11/13	Email from Swiggard to Clark, cc: McCulloch re Staffing	X			
A-136	GS_006120	09/17/13	Email from Swiggard to Clark invitation to lunch		X		
A-137	GS_006128-6130	09/21/13	Email from Clark to Williams re timesheets and payroll; employee morale	X			
A-138	GS_013327	09/23/13	Email from Swiggard to Burrows, cc: Clark re NCC Field Audit Reports	X			
A-139	GS_012061	09/27/13	Email from Wolfendale to Clark, cc: Williams re time off request	X			
A-140	GS_006197-6198	09/30/13	Email from Clark to Swiggard, cc: McCulloch re Nevada Hotels	X			
A-141	GS_013266	10/02/13	Email from Williams to Clark, cc: Swiggard re timesheets	X			
A-142	GS_001221	10/5/13	Employee Warning Report issued to Clark			X	
A-143	GS_00003613-3618	10/07/13	Email from Swiggard to Clark, Williams re PTO/Sick and Timesheets, Clark's supervisory duties	X			
A-144	GS_006287-6289	10/07/13	Email from Clark to Swiggard, cc: Williams re Timesheet, federal exemptions for salaried employees	X			
A-145	GS_006282-6286	10/07/13	Email from Swiggard to Clark, cc: Williams re timesheet, exempt status	X			
A-146	GS_00001804-1808	10/07/13	Email from Swiggard to K. Swiggard forwarding email between Williams and Clark re PTO and Timesheet approval	X			
A-147	GS_00003672-3677	10/07/13	Email from Williams to Clark re timesheet supervisory addition	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 9  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-148	GS_00003871-3876	10/07/13	Email from Swiggard to Clark, Williams re PTO-Timesheets; Clark's supervision of staff	X			
A-149	GS_00002177-2181	10/10/13	Email from Swiggard to Clark, cc: McCulloch, Faulstich re compensation for Sebastian	X			
A-150	GS_00002183-2185	10/10/13	Email from Clark to McCulloch, cc: Williams re "for now you are still my boss of record"; attaching job offer letter	X			
A-151	GS_014729-14731	10/10/13	Email from Swiggard to Wolfendale, Martin, Clark re Reno fiasco	X			
A-152	GS_013653-13654	10/10/13	Email from Swiggard to McCulloch re Reno fiasco	X			
A-153	PC B.2 F.8 139-141/248	10/14/13	Email from Burrows to Clark re SIP for failure to follow DOT rules	X			
A-154	PC B.2 F.8 142-147/248	10/15/13	Email from Burrows to Clark re Chestnut AES cal error	X			
A-155		10/15/13	System Improvement Plan – Trailer driven from Texas to Nevada without following DOT rules (no bates number)	X			
A-156	GS_014690-14694	10/15/13	Email from Burrows to Clark re job descriptions; attaching job description for Project Manager – Emissions Testing	X			
A-157	GS_011091	10/16/13	Email from Burrows to Clark re calibration error sheet, training for new hires	X			
A-158	GS_001242	10/16/13	Email Swiggard to McCulloch, Williams re hires for Nevada Cement project	X			
A-159	GS_012065	10/16/13	Employee Time –Off Request Report for Wolfendale	X			
A-160	GS_013989-13990	10/16/13	Email from McCulloch to Swiggard re Nevada Cement hires	X			
A-161	GS_006265	10/20/13	Email from Clark to Faulstich, cc: K. Swiggard re Nevada Cement invoice	X			
A-162	GS_006123	10/21/13	Email from Clark to Swiggard re meeting request	X			
A-163	Intentionally Blank	--	Intentionally Blank				

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 10  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-164	GS_013395	10/23/13	Email from Clark to W. Martin re time off request	X			
A-165	GS_001216	10/25/13	Paystub information for Clark, with note Clark payroll error"	X			
A-166	Intentionally Blank	--	Intentionally Blank				
A-167	1 page	10/28/13	Email from Clark to Williams re timesheet approval	X			
A-168	GS_006121	10/28/13	Email from Clark to Swiggard, cc: Williams re update on request to meet	X			
A-169	GS_013926	10/28/13	Email from McCulloch to Swiggard re removal of Clark from management to field supervisor role	X			
A-170	GS_013924-13925	10/30/13	Email from McCulloch to Clark re GC work	X			
A-171	GS_001231-1232	11/04/13	Email from Clark to Swiggard, cc: Williams re timesheets, time out of office	X			
A-172	GS_011249-11259	11/04/13	Email from Clark to Burrows re AES error follow up -	X			
A-173	PC B.2 F.5 265-266/350	11/04/13	Email from Clark to Swiggard, cc: Williams re Paul's time, limit to hours actually in office	X			
A-174	PC B.2 F.5 300/350	11/04/13	Email from Clark to M. Parelskin, Williams approving time sheet	X			
A-175	PC B.2 F.8 181-187/248	11/04/13	Email from Burrows to Clark re AES error follow up	X			
A-176	PC B.2 F.8 188-197/248	11/04/13	Email from Burrows to Clark re AES error follow up	X			
A-177	PC B.2 F.8 238-239/248	11/04/13	System Improvement Plan re incorrect data included in report	X			
A-178	GS_014676-14677	11/05/13	Email from Burrows to Swiggard re quality issues at the Northwest Office	X			
A-179	GS_00003811-3812	11/05/13	Email from Swiggard to K. Swiggard re Paul Annual Review	X			
A-180	GS_013504-13506	11/05/13	Email from Swiggard to Faulstich re Paul's office time	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 11  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-181	GS_005973	11/07/13	Email from Clark to Faulstich forwarding email from Durkop	X			
A-182	PC B.2 F.5 229/350	11/10/13	Email from Clark to L. Lawson re potential source testing, citing experience testing PSE sites	X			
A-183	GS_013576-13577	11/11/13	Email from Swiggard to McCulloch, Burrows re Chestnut 90 day oversight period	X			
A-184	GS_006262	11/12/13	Email from Clark to Williams, Wolfendale approving timesheet	X			
A-185	PC B.2 F.7 212-213/248	11/12/13	Email from Clark to Metz, cc: Chestnut, Swiggard, Burrows re AES Amended Report	X	(assuming typo and you mean F.8)		
A-186	PC B.2 F.8 209-211/248	11/12/13	Email from Clark to Burrows re AES amended report	X			
A-187	GS_014234	11/12/13	Email from Swiggard to Chestnut re Paul's absence	X			
A-188	GS_010549-10552	11/13/13	Email from Swiggard to Burrows re discussion with Clark re Chesnut calibration error	X			
A-189	PC B.2 F.8 219/248	11/13/13	Email from Clark to McCulloch re SIP13-057		X (unless attached SIP)		
A-190	PC B.2 F.8 230-236/248	11/13/13	Email from Metz to McCulloch, Swiggard, cc: Clark, Chestnut, Burrows re AES Amended Report	X			
A-191	GS_004663-4666	11/13/13	Email from Swiggard to Clark, cc: Burrows, McCulloch re AES Amended Report	X			
A-192	PC B.2 F.8 224-227/248	11/13/13	Email from Clark to Burrows re falsified data sheet, discipline for Chestnut	X			
A-193	PC B.2 F.8 228-229/248	11/13/13	Email from Clark to Swiggard, cc: Burrows, McCulloch re Scot Chestnut 90 Day Oversight Period		X (dup)		
A-194	GS_008067-8068	11/13/13	Email from Metz to Swiggard, cc: McCulloch, Clark, Chestnut, Burrows re AES Amended Report	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 12  
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Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-195	GS_006263	11/14/13	Email from Clark to Wolfendale approving time off	X			
A-196	GS_008045-8047	11/14/13	Email from Swiggard to Clark, cc: Burrows, McCulloch re Scott Chesnut 90 day Oversight Period	X			
A-197	GS_014573-14576	11/14/13	Email from Burrows to McCulloch re 90 day oversight plans	X			
A-198	PC F.1 140/146	11/15/13	Handwritten termination note from Swiggard to Clark	X	(wrong date)		
A-199	PC B.2 F.5 44-46/350	11/15/13	Email from Clark to Faulstich, Martin, Wolfendale "to increase morale. The old line, the beatings will continue until morale improves"	X			
A-200	GS_014755-14756	11/15/13	Email from McCulloch to Clark re Sebastian compensation adjustment; "since you don't report to me any longer....I think you are going to have to talk with Scott..."	X			
A-201	GS_014753-14754	11/15/13	Email from Williams to Clark, cc: Swiggard, McCulloch re Sebastian's compensation adjustment under review		X (A-202)		
A-202	GS_014660-14662	11/16/13	Email from Swiggard to Burrows forwarding email from Clark re compensation adjustment request for Sebastian	X			
A-203	GS_00003808-3810	11/16/13	Email from Swiggard attaching Clark Annual Review			X	
A-204	GS_011580	11/18/13	Email from K. Swiggard to Williams re request to lock Clark out of server		X		
A-205	GS_013510-13512	11/18/13	Email from Swiggard to K. Swiggard, McCulloch re General Manager Overtime Question	X			
A-206	GS_001229	11/25/13	Email from Williams to Clark, cc: Swiggard re overpayment notification	X			
A-207	GS_001236-1238	11/28/13	Email from Swiggard to Williams forwarding email to Clark re approval of timesheets	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 13  
CASE NO. 2:14-CV-01412-TSZ

Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-208	GS_006201	11/28/13	Email from Swiggard to Williams re o Clark re working from home		X		
A-209	GS_001235	11/29/13	Email from Swiggard to Williams forwarding email from Swiggard to McCulloch re Clark out of office	X			
A-210	EA000003	12/02/13	Job offer letter from Durkop to Clark	X			
A-211	GS_006115	12/18/13	Email from Burrows to Swiggard forwarding email of 11/19/13 summarizing Clark termination		X		
A-212	GS_004756-4759	01/09/14	Email from Metz to McCulloch, cc: Swiggard, Burrows attaching summary of data sheets found under Paul's desk		X		
A-213	GS_005642-5646	01/13/14	Email from Swiggard to STAC Manager re Clark email re accreditation issues	X			
A-214	Intentionally Blank	--	Intentionally Blank				
A-215	Intentionally Blank	--	Intentionally Blank				
A-216	GS_004638-4639	03/28/14	Email from Swiggard to McCulloch, cc: Chestnut re Clark email to Patton re removed data sheet		X		
A-217	EA000021-22	03/30/14	Email from Clark to Enebo re Clark email to Patton		X (A-227)		
A-218	Intentionally Blank	--	Intentionally Blank				
A-219	Intentionally Blank	--	Intentionally Blank				
A-220	Intentionally Blank	--	Intentionally Blank				
A-221	Intentionally Blank	--	Intentionally Blank				
A-222	EA000024-25	06/12/14	Email from Clark to Durkop forwarding Clark email to L. Cottone		X (A-227)		
A-223	EA000015	06/13/14	Notice of Termination letter from Durkop to Clark		X (A-227)		
A-224	EA000027	07/01/14	Elemental Air Sales by Customer Detail report for Clark		X (A-227)		
A-225		2/17/15	Defendant's First Interrogatories and Requests for Production to Plaintiff and Plaintiff's Answers and Responses Thereto	X			

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 14  
CASE NO. 2:14-CV-01412-TSZ



Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-226		07/28/15	Notice of Intent to Issue Subpoena and Subpoena to Elemental Air	X			
A-227	EA000001-70	08/12/15	Elemental Air's Responses to the Golden Specialty Documents Requested in the Subpoena Duces Tecum, with documents produced; Affidavit of Service	X			
A-228		11/23/15	Plaintiff's Answers and Responses to Swiggard's First Interrogatories Nos. 4-7	X			
A-229		12/16/15	Second Amended Complaint	X			
A-230	GS_014912-15084	Various	Golden Specialty Invoices			X	
A-231	GS_015085-15094	06/11/11	Golden Specialty Profit & Loss Detail, 6/1/11 through 11/18/13			X	
A-232	GS_015095	06/11/11	Golden Specialty NW Income – monthly totals (232-1); NW invoices – by month (232-2); all NW Invoices 6/11/11 – 11/18/13 (232-3)			X	
A-233	GS_015096-15097	06/11/11	Golden Specialty Profit & Loss Detail – Income Totals NW Projects 6/11/11 – 11/18/13			X	
A-234	GS_015098-15159	06/11/11	Golden Specialty Profit & Loss Detail 6/11/11 – 11/18/13			X	
A-235	PC B.10 F.1 1-4	03/04/14	Communication between Clark and U.S. Senator Cantwell re oversight of emission testing contractors	X			
A-236	GS_015160-15587	11/13/13	Air Quality Test Report Revision 1.0 for AES Hawaii, Inc.		X		
A-237	GS_000677-686	08/30/13	Email from P. Kenish, LNI to Swiggard re General Manager Overtime Question		X		
A-238	GS_001368-1519	Various	Trailer Activity Logs		X		
A-239	GS_001520-1572	Various	Gate Logs		X		
A-240	GS_006223	09/14/11	Email from Craft to Clark re hours for last two weeks		X		
A-241	GS_006207	10/11/11	Email from Craft to Clark re time for 9/25-9/30		X		
A-242	PC F.3 31/101	01/17/12	Email from Craft to Clark re timesheets for last two weeks		X		
A-243	GS_006268-6270	03/28/12	Email from Craft to Clark re payroll		X		

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 15  
CASE NO. 2:14-CV-01412-TSZ



Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectable	Otherwise Objectable	Admitted
A-244	PC F.3 45/101	06/06/12	Email from Craft to Clark re timesheet for weeks of 5/6-5/19		X		
A-245	PC F.3 97/101	07/11/12	Email from Craft to Clark re timesheets		X		
A-246	GS_006216	01/16/13	Email from Craft to Clark re timesheets from last two weeks		X		
A-247	GS_012896-12897	03/21/13	Email from McCulloch to Swiggard re work from home agreement for Clark		X		
A-248	GS_014276	08/19/13	Email from Clark to Williams re 40 hours for office work		X		
A-249	GS_006234	07/11/13	Email from Clark to Metz re missing items on data sheets		X		
A-250	GS_006127	09/30/13	Email from Clark to Williams re missing timesheets		X		
A-251	PC B.2 F.8 133/248-135/248	10/10/13	Email from Swiggard to Clark re lost sheet		X		
A-252	PC B.2 F.8 202/248-203/248	11/12/13	Email from Clark to Metz re amended report		X		
A-253	PC B.2 F.8 204/248-205/248	11/12/13	Email from Burrows to Clark re AES amended report		X		
A-254	PC B.2 F.5 175/350-177/350	11/13/13	Email from Clark to Burrows re false numbers on cal error datasheet	X			
A-255	GS_004675-4677	01/06/14	Email from Clark to Szambaris re accreditation issues	X			
A-256	GS_000174-673 (excerpts)	Various	Clark payroll summary information 2011-2013		X		
A-260	GS_001109-1110	01/02/14	Memo from Burrows to Swiggard re Documents Discovered Under Paul Clark's Desk After his Termination		X		
A-261	GS_011201-11203	10/29/13	Email from Burrows to Clark re QAM		X		
A-262	GS_006223	09/14/11	Email from Craft to Clark re Timesheets, DOT card		X		
A-263	GS006218-6219	11/13/13	Email from Clark to Williams, cc: Swiggard re timesheets for last week		X		
A-264	GS_001103-1108	--	Customer Feedback Chart		X		

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 16  
CASE NO. 2:14-CV-01412-TSZ

Ex. No.	Prod. No. or No. Pgs.	Date	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
A-265	GS_015588-15590	01/29/15	Email from McCulloch to Swiggard forwarding email chain re Revised AES Report approval		X		

EXHIBIT A TO DEFENDANTS' PRETRIAL STATEMENT - 17  
CASE NO. 2:14-CV-01412-TSZ



**EXHIBIT B TO JOINT PRETRIAL STATEMENT**

Ex. No.	Prod. No. or No. Pgs.	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
1	GS 013134-013136	McCulloch to Clark: NW Notes	X			
2	formerly A-46	Letter from Shawn Ferris re Unresolved Issues			X	
3	GS 009567-9568	McCulloch to Guerrero email subject "eyewash"		X		
4	GS 3025-3027	McCulloch to Clark re: method deviation documentation	X			
5	GS 13796-GS 13797	Swiggard to McCulloch email chain Re NW Income	X			
6	GS 3871- 3876	Swiggard to Clark, Williams email chain RE PTO/Sick and Timesheets	X			
7	GS 3603	Clark to Williams Re: Timesheet supervisory addition	X			
8	GS 3835-3836	Swiggard to McCulloch email	X			
9	GS 3818-3820	Swiggard to McCulloch email	X			
10	Gs 13586-13590 formerly A-163	Swiggard to McCulloch re NW lines	X			
11	GS 8122-8125	Swiggard to McCulloch and Burrows RE: Scott Chesnut 90 day Oversight Period	X			
12	GS 010581-010584	Swiggard to Jim Stephenson email subject "Fwd: AES Amended Report"			X	
13	GS_00003775-3779	Swiggard to Williams email subject "Paul Clark's annual review"		X		
14	PC B.3 F.1 1/11-11/11	Resney emails with Jennifer Craft			X	
15	PC B. 4 530-531	DOL findings to Clark			X	
16	PC F. 532/557-550/557	DOSH Inspection findings			X	

Ex. No.	Prod. No. or No. Pgs.	Description	No Objection	Authenticity Admitted but Objectionable	Otherwise Objectionable	Admitted
17	GS 005931	Swiggard to Durkop email		X		
18	PC B.4 13/14-14/14	Durkop to Clark email			X	
19	GS 13277-13281	Swiggard to Wilson email			X	
20	PC F. 21 1/95-6/95	Notice of Tort Claim)			X	
21	GS 005936-39	Swiggard to Elemental		X		
22	PC B.4 1/14-9/14	Enebo to Clark			X	
23	PC B.4 11/14-12/14	Golden Announcement of Office Opening			X	
24	GS 00001896	Swiggard – Payroll Processing Error		X		
25	GS 012856-58	Changes in NW Management	X			
26	PC B. 5 F.1 1/2-2/2	McCulloch to Clark re Work Distribution	X			
27	Demonstrative	Lost Income Documentation for Clark Based on A-1, EA 1-70, A-228			X	
28	PC B.2 F.1 21-23/197	Clark to McCulloch Email re it's vent or blow			X	
29	GS 1212-1215	Swiggard to STAC (Ayers Dec. 19)	X			
30	GS 013536	K Swiggard to S. Swiggard (SJ Ex. 8)	X			
31	PC B.3 F. 2 95/96	Swiggard to Elam re STAC matter (provisional on MIL)			X	
32	GS 14720-14723	Burrows memo on new QA Manager Training			X	